

REMARKS

The undersigned thanks Examiner Heard for entry of the after final amendments of December 19, 2008 and the impromptu teleconference on January 30th, summarized herein. Applicants submit herewith a request for continued examination with further amendments for claims 1 and 2 as a result of the Advisory Action. With this amendment, claims 1 and 2 have been amended by limiting the meaning of X to alkyl and aryl. Support for amendments to claim 1 can be found in description on page 9, lines 12-18.

Claims 29 and 30, which were newly presented after final, are re-presented for consideration with this amendment. As noted previously, claims 29 and 30 represent claims 14 and 15 in independent form for which an indication of allowability was noted on page 6 of the Final Office Action. No new matter is added.

Claims 1-3, 5, 6, 9-11, 13-19, 21-24 and 26-30 are pending in the application. Of the above claims 16-19, 21-24, 26-28 are withdrawn from consideration as directed to non-elected subject matter.

Claims rejection under 35 USC § 112 first paragraph – written description

Claims 1, 3, 5, 6, 8-11, 13 and 29-30 are rejected under 35 USC § 112 first paragraph as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) had possession of the claimed invention at the time that the application was filed. Applicant respectfully disagree, nevertheless in order to advance the case to allowance, claims 1 and 2 have been amended to specify that X is either alkyl or aryl. Applicant respectfully submits that the present claim amendments obviate this rejection.

Applicant respectfully submits that the application provides sufficient written description for X being alkyl or aryl, in the description of the linker on page 9, lines 12-18 of the specification, where it is clearly stated that the linker of formula (IV) can be either 2-chloro-5-maleimidobenzoic acid, 3-maleimidobenzoic acid, 3-maleimidopropionic acid, 4-maleimidosalicylic acid, 6-maleimidohexanoic acid, beta-maleimidopropionic acid, epsilon-maleimidocaproic acid and gamma-maleimidobutyric acid-, or the salts thereof.

In view of Applicants' amendments and arguments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Application No.: 10/522,565
Filing Date: June 20, 2005

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 2, 2009

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